

FINANCE-30400

(SUB NO. 8 AND 10)

3392

SERVICE DATE

AUG 20 1984

EC  
FR-7035-01

INTERSTATE COMMERCE COMMISSION

DECISION NO. 13

Finance Docket No. 30400 (Sub-Nos. 8 and 10)

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY SYSTEM-TRackage RIGHTS-  
OVER SOUTHERN PACIFIC TRANSPORTATION COMPANY BETWEEN SAN ANTONIO  
AND CORPUS CHRISTI, TX

Finance Docket No. 30400 (Sub-No. 9)

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY SYSTEM-ACQUISITION OF USE  
OF MISSOURI PACIFIC RAILROAD COMPANY FACILITIES AT CORPUS  
CHRISTI, TX

Finance Docket No. 30400 (Sub-No. 11)

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY SYSTEM-TRackage RIGHTS-  
OVER ST. LOUIS SOUTHWESTERN RAILWAY COMPANY BETWEEN TOPEKA AND  
LIBERAL, KS

Finance Docket No. 30400 (Sub-No. 12)

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY SYSTEM-TRackage RIGHTS-  
OVER SOUTHERN PACIFIC TRANSPORTATION COMPANY BETWEEN HOUSTON AND  
TEXAS CITY, TX

Finance Docket No. 30400 (Sub-No. 13)

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY SYSTEM-TRackage RIGHTS-  
OVER SOUTHERN PACIFIC TRANSPORTATION COMPANY BETWEEN HOUSTON AND  
BEAUMONT, TX

Finance Docket No. 30400 (Sub-No. 14)

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY SYSTEM-TRackage RIGHTS-  
OVER THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY BETWEEN  
DALLAS AND WARD SPUR, TX

AGENCY: Interstate Commerce Commission.

ACTION: Applications accepted for consideration.

SUMMARY: The Commission is accepting for consideration the applications of Missouri-Kansas-Texas Railroad Company System for trackage rights over certain lines of Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, and the Atchison, Topeka and Santa Fe Railway Company, and for acquisition of the right to use certain facilities of the Missouri Pacific Railroad Company for access to the terminal area at

Finance Docket No. 30400 (Sub-Nos. 8 and 10), et al.

Corpus Christi, TX. These applications are filed as proposed conditions to the proposed merger between the Atchison, Topeka and Santa Fe Railway Company and the Southern Pacific Transportation Company. A schedule has been set for consideration of these applications.

DATES: Written comments must be filed with the Interstate Commerce Commission by October 1, 1984. Oral hearing in this consolidated proceeding will begin October 1, 1984.

FOR FURTHER INFORMATION CONTACT:

Ellen A. Goldstein  
(202) 275-7969

ADDRESSES: An original and 10 copies of all comments referring to the appropriate docket number should be filed with:

Office of the Secretary  
Interstate Commerce Commission  
Washington, DC 20423

One copy of all comments should also be filed with:

Rail Section  
Room 5417  
Interstate Commerce Commission  
Washington, DC 20423

SUPPLEMENTAL INFORMATION:

The Missouri-Kansas-Texas Railroad Company (MKT), with its wholly-owned subsidiary, the Oklahoma, Kansas and Texas Railroad Company (OKT), presently operates over approximately 3,100 miles of railroad in Missouri, Kansas, Oklahoma, Texas, Nebraska, and Iowa, extending from its principal northern terminals at Council Bluffs, IA, Omaha, NE, St. Louis, MO, and Kansas City, MO/KS, to its principal southern terminals at Dallas, Fort Worth, San Antonio, Houston, and Galveston, TX.

On July 18, 1984, MKT filed these responsive applications as proposed conditions to the applications in Finance Docket No. 30400 and embraced cases, where the Santa Fe Southern Pacific Corporation (SFSP) seeks authority to acquire control of Southern Pacific Transportation Company (SPT) and to merge SPT and the Atchison, Topeka and Santa Fe Railway Company (ATSF) to form SPSF, and for related transactions. Notice of those applications was published in the Federal Register on April 20, 1984, at 49 Fed. Reg. 16881.

By statute and regulation, responsive applications were due to be filed July 19, 1984. [49 U.S.C. 11345(b)(2); and 49 C.F.R. 1180.4(d)(4).] We granted MKT an extension of time to complete its applications by September 10, 1984 (decision served July 23, 1984). Supporting financial information, environmental

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and energy data, market impact analysis, operating plan, density charts, and verified statements must be filed by that date.

A summary of the applications follows:

(1) In Finance Docket No. 30400 (Sub-Nos. 8 and 10), MKT seeks trackage rights over SPT from San Antonio to Corpus Christi, TX, including the use of trackage of the Missouri Pacific Railroad Company (MP) that is presently used by SPT in serving Corpus Christi, and that is the subject of the Sub-No. 9 application; and MKT seeks authority to construct a connection from present MKT trackage in San Antonio to present SPT trackage in San Antonio. The trackage rights and the connection to be built are specifically:

The connection will be constructed from approximately MKT Mile Post 1036.1 to approximately Mile Post 210.7 on the SPT's Del Rio Subdivision east of Tower 112, a distance of approximately 1700 feet. MKT would then enter onto SPT's Del Rio subdivision at Mile Post 210.7 near Tower 112 and would continue on to SPT's Corpus Christi Subdivision at approximately Mile Post 211.3 and thence to SPT Junction at Mile Post 122.6, a distance of approximately 123 miles; thence onto the MP's line at Sinton to MP Junction at Mile Post 152.8; then back onto the SPT line at MP Junction to approximately Mile Post 156.6 in the SPT-TM Joint Yard, said line being located in Bexar, Wilson, Karnes, Bee, San Patricio, and Nueces Counties, TX.

The right to interchange traffic with the Texas-Mexican Railroad Company (TM), MP, SP, and Corpus Christi Terminal Association at Corpus Christi is also sought along with the right to serve the Port of Corpus Christi and to serve all other industries in Corpus Christi through reciprocal switching.

If this Commission does not grant its primary request for trackage rights to Corpus Christi, MKT requests trackage rights over SPT's line from San Antonio to Eagle Pass, TX, which requires the construction of the same connection, plus the right to use SPT terminal facilities and services at Eagle Pass, to serve all industries at Eagle Pass, and to interchange with the National Railways of Mexico. These trackage rights and terminal rights are specifically:

The same connection as described above to be built from MKT Mile Post 1036.1 to approximately Mile Post 210.7 on the SPT's Del Rio Subdivision east of Tower 112. MKT would then continue on the Del Rio Subdivision to Spofford at Mile Post 341.7; then on the SPT's Eagle Pass Branch to Mile Post 33.2 in the SPT's Yard, a distance of approximately 164.2 miles, said line being located in Bexar, Medina, Uvalde, Kinney, and Maverick Counties, TX.

(2) In Finance Docket No. 30400 (Sub-No. 9), in conjunction with the Sub-Nos. 8 and 10 applications, MKT seeks access to terminal facilities of MP in the Corpus Christi, TX, area

presently used by SPT, under agreement with MP, for SPT's access to the Corpus Christi terminal area. The facilities are specifically:

The MP line between Mile Post 161.85 at Sinton, TX, and Mile Post 154.57 at Odem, TX, a distance of approximately 7.28 miles, and between Mile Post 132.30 at Odem and Mile Post 145.60 at Corpus Christi, TX, a distance of approximately 13.30 miles, together with three connecting tracks 853 feet long at Sinton, 1,193 feet long at Odem, and 408 feet long at Corpus Christi.

(3) In Finance Docket No. 30400 (Sub-No. 11), MKT seeks trackage rights over the St. Louis Southwestern Railway Company (SSW) between Topeka and Liberal, KS, with service at all intermediate points either physically or through reciprocal switching, and use of SSW trackage to interchange at Herington, Hutchinson and Liberal, KS, with all carriers now serving those points. The trackage rights are specifically:

That part of SSW's main track extending for a distance of approximately 341 miles from, on the east, the connection with the Union Pacific Railroad Company (UP) at St. Joseph Junction at Mile Post 89.3 in Topeka, KS, to Mile Post 436.1 at Liberal, KS, located in the Counties of Shawnee, Wabaunsee, Morris, Dickinson, Marion, McPherson, Reno, Pratt, Kiowa, Ford, Clark, Meade, and Seward, KS.

(4) In Finance Docket No. 30400 (Sub-No. 12), MKT seeks trackage rights over the SPT between Houston and Texas City, TX, with service at all intermediate points either physically or through reciprocal switching. The trackage rights are specifically:

From the Galveston, Houston and Henderson Railroad (GH&H) connection with SPT/Port Terminal Railroad Association (PTRA) at Harrisburg, between Harrisburg Jct. and Manchester Jct., then on the SPT from Manchester Jct. to Sinco Jct., then on to joint SPT/PTRA trackage from Sinco Jct. to Deer Park Jct., then on the SPT to Lift Bridge at Mile Post 51.7, a distance of approximately 44.5 miles; or, if the SPT abandons the line from Texas City to Galveston, then MKT requests the right to construct a connection from the SPT line to the GH&H line at Texas City at around Mile Post 46.8, a distance of approximately 39.6 miles, all located in Harris and Galveston Counties, TX.

(5) In Finance Docket No. 30400 (Sub-No. 13), MKT seeks trackage rights over the SPT between Houston and Beaumont, TX, with MKT also to serve the point of Chaison on SPT's Sabine Branch and to interchange with all carriers now serving Beaumont. MKT also seeks to use SPT terminal facilities at Beaumont, including using SPT's yard and terminal tracks and having SPT perform all necessary terminal functions for MKT at Beaumont. MKT also seeks the right to serve all industries at Beaumont, including the Port of Beaumont, through reciprocal switching. The trackage rights are specifically:

From point of connection with SPT in vicinity of Tower 108 at Houston, then over the Lafayette Subdivision to Beaumont, a distance of approximately 82 miles; and from Beaumont to Chaison Jct. at Guffey on the Sabine Branch, then on to Chaison, a distance of approximately 7 miles; all located in Harris, Liberty, and Jefferson Counties, TX.

(6) In Finance Docket No. 30400 (Sub-No. 14), MKT seeks trackage rights over ATSF between Dallas and Ward Spur, TX, with MKT physically serving the intermediate point of Midlothian, TX, and the industries at Ward Spur. The trackage rights are specifically:

From the ATSF main track connection near Tower 19 in Dallas to Midlothian at mile Post 26.9, then on to Ward Spur at Mile Post 23.7, a total distance of about 28 miles, with authority to physically serve all industries at Midlothian and Ward Spur, and with the right to construct a connection at Midlothian to the Mazda Motor facility at no expense to ATSF; all located in Dallas and Ellis Counties, TX.

The applications substantially comply with the applicable regulations, waivers, and extensions granted. However, we will require MKT to present more evidence regarding its related Sub-Nos. 8 and 10 and its Sub-No. 9 applications. The description of trackage rights in the Sub-Nos. 8 and 10 applications includes a portion of MP track. We presume that this is the MP line and connecting tracks described in the Sub-No. 9 application. We will accept the Sub-Nos. 8, 9, and 10 applications on the condition that MKT provide, by the extension date, more detailed information, such as maps and mile posts, clearly indicating the trackage over which it seeks to operate in these applications and the applications' relation to each other.

The applications and exhibits are available for inspection in the Public Docket Room at the Offices of the Interstate Commerce Commission in Washington, DC. In addition, they may be obtained from applicant's representatives upon request. Interested persons should request copies of exhibits, due September 10th, from applicant's representatives, so that their comments may reflect the later filed information.

These applications are consolidated for disposition with the applications in Finance Docket No. 30400, et al. Those applications are the subject of oral hearings conducted by Administrative Law Judge James E. Hopkins, commencing October 1, 1984. By statute, the evidentiary phase of these proceedings must end by April 20, 1986. Service of an initial decision will be waived, and determination of the merits of the applications will be made in the first instance by the entire Commission. 49 U.S.C. 11345.

Participation in the Proceeding: Comments. Interested persons may participate formally by submitting written comments regarding the applications. Comments should indicate the exact

proceeding they are filed in, and an original and 10 copies should be filed with the Office of the Secretary, Interstate Commerce Commission, Washington, DC, 20423, no later than October 1, 1984. One copy should also be sent to the Rail Section, Room 5417, Interstate Commerce Commission, Washington DC, 20423. Comments shall include the following: the person's position in support of or in protest to the proposed transaction, and specific reasons why approval would or would not be in the public interest. See 49 C.F.R. 1180.4(d)(1). Interested persons who do not intend to participate formally in the proceeding but who desire to comment may file statements, subject to the filing and service requirements specified below. Persons must state specifically whether they intend to actively participate in the oral hearings on the applications or whether they wish only to be advised of all decisions issued by the Commission. Failure to state an intention to participate as an active party will result in the person being placed in the latter category.

Written comments shall be concurrently served by first-class mail on the Secretary of the Department of Transportation, on the Attorney General of the United States, and on

- (1) Applicant's representatives:  
Michael E. Roper  
Commerce Counsel  
Missouri-Kansas-Texas Railroad  
Company  
701 Commerce Street  
Dallas, Texas

and

Robert N. Kharasch  
Galland, Kharasch, Morse &  
Garfinkle, P.C.  
1054 Thirty-first Street, NW  
Washington, DC 20007

- and (2) representatives of primary applicants SPT and ATSF

R.K. Knowlton  
Vice-President - Law  
Santa Fe Southern Pacific Corp.  
224 S. Michigan Ave.  
Chicago, IL 60604

Milton E. Nelson, Jr.  
General Counsel  
The Atchison, Topeka and Santa Fe  
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224 S. Michigan Ave.  
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and

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Douglas S. Stephenson  
General Attorney  
Southern Pacific Transportation Co.  
One Market Plaza  
San Francisco, CA 94105

Within 10 days of the filing of written comments with the Commission, comments must also be served, by first class mail, on all persons designated active parties of record on the Commission's revised service list, which will be served shortly.

Responsive Applications. Because these applications contain proposed conditions to approval of the applications in Finance Docket No. 30400, et al., the Commission will entertain no requests for affirmative relief to these proposals. Parties may only participate in direct support of or direct opposition to MKT's applications as filed.

This action will not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

1. The applications in Finance Docket No. 30400 (Sub-Nos. 8 - 14) are accepted for consideration, subject to the condition that they are completed by September 10, 1984.
2. The parties shall comply with all provisions as stated above.
3. The decision is effective on the date served.

Decided: August 15, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Chairman Taylor was absent and did not participate.

(SEAL)

Kathleen M. King  
Acting Secretary